

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE: BLUE CROSS BLUE SHIELD) ANTITRUST LITIGATION) (MDL NO. 2406)))))))	Master File No.: 2:13-CV-20000-RDP
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Declaration of Frank M. Lowrey IV

I, FRANK M. LOWREY IV, declare as follows:

1. I am a partner at the firm Bondurant Mixson & Elmore, LLP.
2. I, along with other attorneys at my firm, represent Home Depot U.S.A., Inc., together with all its parents, subsidiaries, and affiliates that would be members of the proposed Settlement Classes (“Home Depot”) in this matter.
3. On July 28, 2021, Home Depot submitted to the Settlement Administrator the “Exclusion Request of Home Depot U.S.A. Inc. and its Affiliates” attached as **Exhibit 1** via email to info@BCBSsettlement.com and via U.S. Mail.
4. In that Exclusion Request, which was timely submitted to the Administrator, Home Depot stated that it was opting out on behalf of “Home Depot U.S.A., Inc., **together with all its parents, subsidiaries, and affiliates that would be members of the proposed Settlement Classes.**” *Id.* (emphasis added).
5. On July 29, 2021, the Settlement Administrator confirmed via email that it received the exclusion request. *See Exhibit 2.*
6. On May 2, 2022, Home Depot submitted to the Settlement Administrator the supplemental “Exclusion Request of Home Depot U.S.A. Inc., and its Affiliates” attached as **Exhibit 3** via Certified Mail and via email to info@BCBSsettlement.com.

7. In its Supplemental Exclusion Request, which was timely submitted to the Administrator, Home Depot stated that it was opting out on behalf of “Home Depot U.S.A., Inc., together with all its parents, subsidiaries, and affiliates that would be members of the proposed Settlement Classes” and that “For the avoidance of any doubt, this exclusion request includes **The Home Depot Group Benefits Plan, Home Depot Medical and Dental Plan, and any other health benefits plan sponsored by Home Depot** that would be a member of any of the proposed settlement classes.” *Id.* (emphasis added).

8. On May 3, 2022, the Settlement Administrator confirmed via email that it received the exclusion request. *See Exhibit 4.*

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 8th day of September, 2022.

/s/ Frank M. Lowrey IV
Frank M. Lowrey IV
GA Bar No. 410310
lowrey@bmelaw.com
BONDURANT MIXSON
& ELMORE, LLP
1201 West Peachtree St NW
Suite 3900
Atlanta, GA 30309
Telephone: (404) 881-4100
Facsimile: (404) 881-4111

EXHIBIT 1

Virginia R. Laymon

From: Virginia R. Laymon
Sent: Wednesday, July 28, 2021 1:26 PM
To: 'info@BCBSsettlement.com'
Cc: Frank M. Lowrey; Ronan P. Doherty; 'BCBSsettlement@hausfeld.com'; 'BCBS-Settlement@bsfillp.com'; 'BCBSsettlement@kirkland.com'; 'wburns@burnscharest.com'
Subject: In re: Blue Cross Blue Shield Antitrust Litigation (USDC, Alabama Northern District Case No. 2:13-CV-20000-RDP/MDL #2406)
Attachments: 2021-07-28 Home Depot Exclusion Request.pdf

On behalf of Frank Lowrey, attached please find an Exclusion Request of Home Depot U.S.A., Inc. and its Affiliates. The original will follow by U.S. Mail.

If you have any questions, please let us know. Thank you.

Virginia "Ginny" R. Laymon

Legal Assistant to Frank M. Lowrey IV

BONDURANT MIXSON & ELMORE ^{LLP}

One Atlantic Center | 1201 West Peachtree Street NW

Suite 3900 | Atlanta, GA 30309

P: 404.881.4137 F: 404.881.4111 E: laymon@bmelaw.com

www.bmelaw.com

Confidentiality Note: This email is intended only for the person or entity to which it is addressed and may contain information that is privileged, confidential or otherwise protected from disclosure. Unauthorized use, dissemination, distribution or copying of this email or the information herein or taking any action in reliance on the contents of this email or the information herein, by anyone other than the intended recipient, or an employee or agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you have received this email in error, please notify the sender immediately by telephone (404.881.4137) or by electronic mail (laymon@bmelaw.com), and destroy the original message, any attachments thereto and all copies and backups thereof. Thank you.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE: BLUE CROSS BLUE SHIELD)	
)	Master File No.:
ANTITRUST LITIGATION)	2:13-CV-20000-RDP
(MDL NO. 2406))	
)	

Exclusion Request of Home Depot U.S.A., Inc. and its Affiliates

To: Blue Cross Blue Shield Settlement
c/o JND Legal Administration – Exclusion Dpt.
PO Box 91393 Seattle, WA 98111
And by email to info@BCBSsettlement.com

Home Depot U.S.A., Inc., together with all its parents, subsidiaries, and affiliates that would be members of the proposed Settlement Classes (“Home Depot”), wants to be excluded and hereby excludes itself from the Damages Class (including the Self-Funded Sub-Class and all other subclasses) in *In re: Blue Cross Blue Shield Antitrust Litigation*.

Home Depot’s address and telephone number are:

Home Depot U.S.A., Inc.
Attn: Ben Thorpe
Corporate Counsel, Home Depot U.S.A., Inc.
2455 Paces Ferry Road, Bldg. C-20
Atlanta, GA 30339
Telephone: (470) 649-6390
Facsimile: 770-384-3655
Ben_Thorpe@homedepot.com

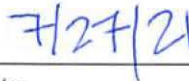
Home Depot is represented in this matter by:

Frank M. Lowrey IV
Ronan P. Doherty
BONDURANT MIXSON & ELMORE, LLP
1201 West Peachtree Street, NW, Suite 3900
Atlanta, GA 30309
Telephone: (404) 881-4100
Facsimile: (404) 881-4111
lowrey@bmelaw.com
doherty@bmelaw.com

In addition, Home Depot also wants to be excluded and hereby excludes itself from the Injunctive Relief Class to the extent that the Settlement Agreement or the Court may permit or to the maximum extent required by constitutional Due Process or any other applicable law.



Lesley Leiserson
Sr. Director—Health Productivity
Home Depot U.S.A., Inc.



Date

cc: Plaintiffs' Co-Lead Counsel:
Blue Cross Blue Shield Settlement
c/o Michael D. Hausfeld
Hausfeld LLP
888 16th Street NW, Suite 300
Washington, DC 20006
BCBSsettlement@hausfeld.com

Blue Cross Blue Shield Settlement
c/o David Boies
Boies Schiller Flexner LLP
333 Main Street
Armonk, NY 10504
BCBS-Settlement@bsflp.com

Counsel for Settling Defendants:
Dan Laytin
Kirkland & Ellis LLP
300 N. LaSalle St.
Chicago, IL 60657
BCBSsettlement@kirkland.com

Counsel for Self-Funded Settlement Sub-Class:
Warren T. Burns
Burns Charest LLP
4725 Wisconsin Ave NW
Suite 200
Washington, DC 20016
wburns@burnscharest.com

EXHIBIT 2

Virginia R. Laymon

From: Blue Cross Blue Shield Settlement <info@BCBSsettlement.com>
Sent: Thursday, July 29, 2021 3:07 PM
To: Virginia R. Laymon
Subject: Ticket#744988/In re: Blue Cross Blue Shield Antitrust Litigation (USDC, Alabama Northern District Case No. 2:13-C -- Has Been Updated

CAUTION:External Email.

--REPLY above this line to respond--

Your ticket 744988 - In re: Blue Cross Blue Shield Antitrust Litigation (USDC, Alabama Northern District Case No. 2:13-C, has been updated.

Dear Virginia,

Thank you for your email. We have received your request to have Home Depot U.S.A., Inc. and its Affiliates be excluded from the Settlement.

Additional information about the Settlement is available on the Settlement Website at www.BCBSsettlement.com.

Regards,

Blue Cross Blue Shield Settlement Claims Administrator
c/o JND Legal Administration
Toll-free: [1-888-681-1142](tel:1-888-681-1142)
www.BCBSsettlement.com
JML

EXHIBIT 3

E. Allen Page

From: E. Allen Page
Sent: Monday, May 2, 2022 2:53 PM
To: info@BCBSsettlement.com
Cc: Thorpe, Ben; Ronan P. Doherty; Frank M. Lowrey
Subject: Home Depot U.S.A. Affiliate Notice of Opt-Out
Attachments: Exclusion Request of Home Depot USA & Affiliates.pdf

Hi there,

On behalf of Home Depot, U.S.A., and its affiliates, please find attached a copy of the Exclusion Request mailed today via Certified Mail to the Settlement Administrator.

Kind regards,
Allen

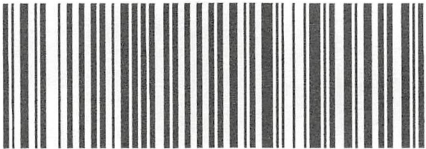
Allen Page

BONDURANT MIXSON & ELMORE LLP

P: 404.881.4167 | C: 404.357.7283 | E: page@bmelaw.com

2002 2030 0001 2597 9443
PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™



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U.S. Postal Service™
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OFFICIAL USE

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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		

Blue Cross Blue Shield Settlement
c/o JND Legal Administration – Exclusion Dpt.

PO Box 81383

Seattle, Washington 98111

SENDER - COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:		B. Received by (<i>Printed Name</i>)	C. Date of Delivery
<div>Blue Cross Blue Shield Settlement c/o JND Legal Administration – Exclusion Dpt. PO Box 81383 Seattle, Washington 98111</div>		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		Service Type Certified Mail <input checked="" type="checkbox"/> Express Mail Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (<i>Transfer from service label</i>)		4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes	

**IN THE UNITED STATES DISTRICT COURT
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IN RE: BLUE CROSS BLUE SHIELD)	
)	Master File No.:
ANTITRUST LITIGATION)	2:13-CV-20000-RDP
(MDL NO. 2406))	

Exclusion Request of Home Depot U.S.A., Inc. and its Affiliates

To: Blue Cross Blue Shield Settlement
c/o JND Legal Administration – Exclusion Dpt.
PO Box 91393 Seattle, WA 98111
And by email to info@BCBSsettlement.com

Home Depot U.S.A., Inc., together with all its parents, subsidiaries, and affiliates that would be members of the proposed Settlement Classes (“Home Depot”), wants to be excluded and hereby excludes itself from the Settlement Damages Class (including the Self-Funded Sub-Class and all other subclasses) in *In re: Blue Cross Blue Shield Antitrust Litigation*. For the avoidance of any doubt, this exclusion request includes The Home Depot Group Benefits Plan, Home Depot Medical and Dental Plan, and any other health benefits plan sponsored by Home Depot that would be a member of any of the proposed settlement classes.

Home Depot’s address and telephone number are:

Home Depot U.S.A., Inc.

Attn: Ben Thorpe

Senior Corporate Counsel, Home Depot U.S.A., Inc.

2455 Paces Ferry Road, Bldg. C-20

Atlanta, GA 30339

Telephone: (470) 649-6390

Facsimile: 770-384-3655

Ben_Thorpe@homedepot.com

Home Depot is represented in this matter by:

Frank M. Lowrey IV

Ronan P. Doherty

BONDURANT MIXSON & ELMORE, LLP

1201 West Peachtree Street, NW, Suite 3900

Atlanta, GA 30309

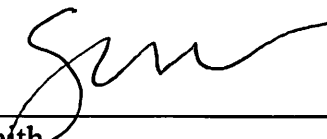
Telephone: (404) 881-4100

Facsimile: (404) 881-4111

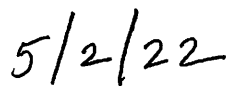
lowrey@bmelaw.com

doherty@bmelaw.com

In addition, Home Depot also wants to be excluded and hereby excludes itself from the Injunctive Relief Class to the extent that the Settlement Agreement or the Court may permit or to the maximum extent required by constitutional Due Process or any other applicable law. For the avoidance of any doubt, this exclusion request also includes The Home Depot Group Benefits Plan, Home Depot Medical and Dental Plan, and any other health benefits plan sponsored by Home Depot that would be a member of any of the proposed settlement classes.



Scott Smith
Vice President, HR Performance Systems
Home Depot U.S.A., Inc.



Date

cc: Plaintiffs' Co-Lead Counsel:
Blue Cross Blue Shield Settlement
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888 16th Street NW, Suite 300
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BCBSsettlement@hausfeld.com

Blue Cross Blue Shield Settlement
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BCBS-Settlement@bsfllp.com

Counsel for Settling Defendants:
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BCBSsettlement@kirkland.com

Counsel for Self-Funded Settlement Sub-Class:
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Burns Charest LLP
4725 Wisconsin Ave NW, Suite 200
Washington, DC 20016
wburns@burnscharest.com

EXHIBIT 4

E. Allen Page

From: Blue Cross Blue Shield Settlement <info@BCBSsettlement.com>
Sent: Tuesday, May 3, 2022 2:45 PM
To: E. Allen Page
Subject: Ticket#926756/Home Depot U.S.A. Affiliate Notice of Opt-Out -- Has Been Updated

CAUTION: External Email.

--REPLY above this line to respond--

Your ticket 926756 - Home Depot U.S.A. Affiliate Notice of Opt-Out, has been updated.

Dear Allen,

Thank you for your email. We have received your exclusion request.

Additional information about the Settlement is available on the Settlement website at www.BCBSsettlement.com.

Regards,

Blue Cross Blue Shield Settlement Claims Administrator
c/o JND Legal Administration
Toll-free: [1-888-681-1142](tel:1-888-681-1142)
www.BCBSsettlement.com
[JML]